

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

BURNS & WILCOX, LTD. §  
A Michigan Corporation §  
§  
Plaintiff, §  
§  
v. § Civil Action No. 2:19-cv-13167  
§ Hon. Bernard A. Friedman  
§  
CRC INSURANCE SERVICES, INC., §  
et al., §  
§  
Defendants. §

**DEFENDANT DONALD R. CARSON, SR.'S PARTIAL  
MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Donald Richard Carson, Sr. (“Carson, Sr.” or “Defendant”) files this Partial Motion to Dismiss for Failure to State a Claim, requesting dismissal of Plaintiff Burns & Wilcox, Ltd.’s (“Plaintiff”) claim for breach of fiduciary duty for failure to state a claim upon which relief can be granted. In support thereof, Defendant shows as follows:

Pursuant to Local Rule 7.1(d), this Motion is accompanied by a single Brief in Support of its Motion to Dismiss for Failure to State a Claim, filed this same day and incorporated herein by reference for all purposes.

**WHEREFORE, PREMISES CONSIDERED,** Defendant Donald R. Carson, Sr. requests that Plaintiff Burns & Wilcox, Ltd. breach of fiduciary duty

claim be dismissed with prejudice, and for such other and further relief to which he is justly entitled.

Respectfully submitted,



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**ATTORNEYS FOR DEFENDANT  
DONALD RICHARD CARSON, SR.**

**CERTIFICATE OF SERVICE**

This is to certify that pursuant to the Rules a true and correct copy of the foregoing instrument has been served on counsel of record for all parties on this 12<sup>th</sup> day of

December, 2019.

Gerard V. Mantese  
Douglas L. Toering  
Kenneth R. Chadwell  
**MANTESE HONIGMAN, P.C.**  
1361 E. Big Beaver Road  
Troy, MI 48083

- VIA OVERNIGHT**
- VIA HAND DELIVERY**
- VIA FIRST CLASS MAIL**
- VIA FAX:**
- VIA EMAIL:**
- VIA CERTIFIED MAIL/RRR**
- VIA ECF:**



**GREGORY M. CLIFT**

**CERTIFICATE OF CONFERENCE**

A conference between attorneys or unrepresented parties and other persons entitled to be heard on the motion in which the movant explained the nature of the motion or request and its legal basis and requested but did not obtain concurrence in the relief sought.



**GREGORY M. CLIFT**